IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.929 OF 2007.

Maharashtra State Electricity
Distribution Co.ltd. ... Petitioner.
Versus.
Smt.Ambavati Sadashiv Shetty. ... Respondent.

Shri L.M.Acharya for the Petitioner.

Shri S.A.Sawant with Mr.Kode for the Respondent.

CORAM : ABHAY S.OKA, J.

DATED : 12th February, 2007.

P.C.:

1. Heard Shri Acharya for the Petitioner and Shri Sawant for the Respondent. Shri Sawant states that the order impugned in this writ petition i.e. order passed below Exh.31 dated 2nd December 2006 has been passed on an application filed by the Respondents invoking the provisions of Rules 1 and 2 of Order XXXIX of the Code of Civil Procedure, 1908 and the said order is passed under the said provision. In view of this statement, it is obvious that the remedy of preferring an appeal under Order LXIII of the said Code of 1908 is available to the Petitioner. In view of the availability of statutory remedy, this writ petition is not entertained and the same is rejected. Shri Sawant states that the impugned order has been acted upon. Shri Acharya states that he has no instruction whether the impugned order has been

acted upon. If the impugned order is not acted upon as of today, the same shall not be acted upon for a period of four weeks from today. Writ Petition is rejected with liberty to the Petitioner to adopt appropriate remedy to challenge the impugned order. All contentions on merits are kept upon.

Judge.